

**SUMMARY OF RESPONSES TO QUESTIONNAIRE
BUNDLED NONTAXABLE SOFTWARE**

**42 Counties Responding to Questionnaire
As of August 4, 2013**

1. Have adjustments been made to remove bundled nontaxable software from the cost of machinery and equipment in your county?

☐ Yes. If you, please provide responses to questions 2 through 9.

18 Counties

☐ No. If no, please provide responses to questions 8 and 9.

24 Counties

2. How did you become aware that an adjustment was necessary?

☐ Taxpayer Notified the Assessor before Business Property Statement was filed

2 Counties

☐ Business Property Statement

5 Counties

☐ Property Tax Audit

10 Counties

☐ Assessment Appeal Filed

13 Counties

☐ Other (Please Explain)

Comment: Agents bring up issue; hard to separate the value reduction to software only when agent is requesting reduction.

3. What type of documentation was used to support the adjustment (mark all that apply)?

☐ Study conducted or data collected by your office.

3 Counties

☐ Study or data provided by a taxpayer.

6 Counties

☐ Invoice

9 Counties

- ☐ Manufacturer or vendor provided a breakdown in costs concerning one or more of the following: hardware, basic operational software, operational software, and/or application software.

8 Counties

- ☐ Other (Please Explain)

Comment: Deloitte study for Set Top Boxes

Comment: Letters from vendors were rejected by assessor but accepted by AAB

Comment: Questionable cost breakdown provided

Comment: Vendor provided a % of software to hardware letter

Comment: Spreadsheet summary of company quote

Comment: Stipulation by taxpayer; assessor conducted field inspection

Comment: Consulted with other counties

4. How was the adjustment calculated (mark all that apply)?

- ☐ Percentage of the total cost of the equipment? If this adjustment was used, please describe the equipment and identify the percentage used.

Comment: taxpayer asked for 45% to 50%; taxpayer accepted county offered 10%

Comment: MRI machine - 30%

Comment: 15%-30% for medical equipment, plus warranty and training costs of 5%

Comment: 20% est full cash value reduction was agreed and included 16% nonassessable software, 4% est warranty and training costs

Comment: High-tech medical including MRI units – 35%

- ☐ Cost on invoice?

6 Counties

- ☐ Cost based on breakdown provided by manufacturer or vendor?

5 Counties

- ☐ Other (Please Describe)

Comment: MRI machine 30% rejected by assessor but accepted by AAB

Comment: Cost/breakdown provided by manufacturer; average % applied

Comment: Internet information provided by taxpayer

Comment: Tried to verify amount through manufacturer; applied reduced trade level to account for software

Comment: Estimated %; 20% to 30% depending on make, model, and year

5. Please complete the following table with respect to the number of assessment appeals filed in your county due to bundled nontaxable software.

Year	2012-13	2011-12	2010-11	2009-10	2008-09	2007-08
Appeals Filed	3	2	20	20	1	1
	8	27	1	1	20	4
	33	20	1	32	1	3
	5	1	121	9	54	1
	73	76	21	22+	1	13
	20+	14	42+	2	13	2
	6	1	11	7	20+	8
	110	20+	4	2	10	3
	1	8	5	1	3	1
	5	15	1		1	
	5	7				
	1	1				
	270	192	227	96	124	36

OUTCOME/STATUS OF APPEALS

Year	2012-13	2011-12	2010-11	2009-10	2008-09	2007-08
Pending/Unresolved	3	2	16	9	1	1
	8	25	21	2	10	7
	33	22	11	5	3	3
	5	14	2	2		
	73	1	5			
	20+	20+				
	6	8				
	110	15				
	1	7				
	5					
	5					
	1					
	270	114	55	18	14	11
Withdrawn		2	1	8	7	3
		1	15	5		2
		16	7			
		19	23	13	7	5
Stipulated		20	20	20	1	1
		38	1	1	20	13
		1	85	12	1	1
			2	2	54	
			1	2	13	
				1	1	
		59	109	38	90	15
Hearings Before the Appeals Board			4	12	14	1
			31	14		
				2		
			35	28	14	1

OUTCOME OF HEARINGS BEFORE THE APPEALS BOARD

Year	2012-13	2011-12	2010-11	2009-10	2008-09	2007-08
Assessments Reduced	1 1	1 1	4 30 1 35	12 13 1 26	1 13 1 15	1 4 13 1 19
Assessments Upheld			1 1			
Assessments Increased			3 1 4	14 14	14 14	1 1

6. Use the following table to identify the type of industry where adjustments were made to remove bundled nontaxable software (BNTS) from the cost of machinery and equipment. If available, include adjustment information, year of adjustment, and source used to identify the necessary adjustment.

No.	Industry	Total Assessed Value	Adjustment to Remove BNTS	Net Assessed Value	Year¹	Source²
1.	Medical	\$3.4 million	<50K		A	2
2.	Leased Health Care	\$557,370	Table Provided	\$198,152	E	4
3.	Leased Health Care	\$339,340	Table Provided	\$120,666	F	4
4.	MRI		\$166,192		A	1
5.	MRI		\$213,676		B	1
6.	MRI		\$206,520		C	3
7.	MRI		\$247,087		D	3
8.	MRI		\$510,993		E	3
9.	MRI		\$955,911		F	5
10.	Small Adjmts to PCs					
11.	Medical/Hospital				A	
12.	Medical/Hospital	\$8,600,334	\$2,688,091	\$5,912,243	B	4
13.	Medical/Hospital	\$47,139,538	\$14,126,516	\$33,013,022	C	3,4,5
14.	Medical/Hospital	\$46,540,370	\$13,699,072	\$32,841,298	D	3,4,5,6
15.	Medical/Hospital	\$29,127,780	\$9,971,290	\$19,156,490	E	4,5,6
16.	Medical/Hospital	\$23,541,947	\$8,213,630	\$15,328,317	F	4
17.	Medical/Hospital	\$4,186,139	\$1,106,984	\$3,079,155	G	4
18.	Medical					
19.	Medical Equipment	\$3,376,709	\$885,125	\$2,491,584	E	4
20.	Medical Equipment	\$18,497,551	\$6,121,706	\$12,375,845	F	4
21.	Medical (MRI/CT)		20% – 30%		B/C	4,1
22.	Medical (dialysis)	\$2.3 million est	30%		E	5,1
23.	Medical (dialysis)	\$1.7 million est	20%		D	5,1
24.	Medical (dialysis)		0%		C	5,1
25.	Medical	\$942,858	\$188,572	\$754,286	B	3
26.	High Tech Medical	\$185,000	\$47,000	\$138,000	C	2
27.	Medical-Cardinal					
28.	Dialysis	\$2,110,189			H	
29.	Dialysis	\$2,202,910			G	
30.	Dialysis	\$2,211,102			F	
31.	Dialysis	\$3,488,190			E	
32.	Dialysis	\$2,658,992			D	

No.	Industry	Total Assessed Value	Adjustment to Remove BNTS	Net Assessed Value	Year ¹	Source ²
33.	Dialysis	\$7,181,474			C	
34.	Dialysis	\$6,378,544			B	
35.	Dialysis	\$3,764,160			A	
36.	Theater Proj Equip	\$197,552	\$36,520	\$161,032	A	1

¹ Use the following codes to identify the roll year: **A** for 2012-2013; **B** for 2011-2012; **C** for 2010-2011; **D** for 2009-2010; **E** for 2008-09; and **F** for 2007-08.

² Use the following codes to identify the source: **1** for Business Property Statement; **2** for Property Tax Audit; **3** for Assessment Appeals Withdrawn; **4** for Assessment Appeals Stipulated; **5** for Assessment Appeals Hearings with Board Reduced Values; and **6** for all Other (if "other," please complete the following table).

Source: Other

No.	Description of "Other" Source
12	BPP resulting from prior year appeal – prior to audit
14	BPP resulting from prior year appeal – prior to audit
21	The value and adjustment estimated; software not isolated issue just a part of appeal. AAB did not separate value as to issues such as software.

7. Please indicate the number of cases concerning appeals of assessments in which the valuation of bundled nontaxable software, embedded software, Revenue and Taxation Code sections 995 or 995.2, or Property Tax Rule 152 have been an issue since January 1, 2007.

☐ No appeals have been filed with the appeals board.

4 Counties

Number of decisions that have been reached by the appeals board.

4 Counties – 9 decisions

Number of taxpayers who have filed for a refund. Please provide copies of each filing. For each appeal, please provide the evidence presented by the taxpayer and assessor.

4 Counties – 6 refund filings

Number of settlements that have been reached after the filing of a claim for refund.

5 Counties – 33 settlements

Number of cases that have been filed by the county or taxpayers in Superior Court challenging the valuation decision by an appeals board. Please provide copies of the complaint, answer, and evidence presented by the taxpayer and/or assessor and any decision by the Superior Court.

1 County – 1 filing

Number of appeals of any decision of the Superior Court. Please provide copies of all documents filed with the court of appeal.

1 County – 1 court decision

☐ Other (Please Explain

Comment: 35 appeals but not enough evidence provided

Comment: 2 appeals filed, but both withdrawn

Comment: number of cases stipulated or settled before going to AAB: 2009=5, 2010=14, 2011=13, 2012=0

Comment: 51 appeals filed; none have been heard, stipulated, or resolved

Comment: 5 appeals filed DIRECTV; postponed awaiting actions across the state

Comment: 27 appeals filed since 2007; none have been heard yet.

8. When conducting audits, have you found that taxpayers reported less than full cost of equipment due to bundled nontaxable software?

☐ No

29 Counties

☐ Yes

9 Counties

If yes, how many instances were discovered in the last four years?

6 Counties – 21 discoveries

If yes, did they have evidence to substantiate their adjustment? ☐ Yes ☐ No

No

4 Counties

Yes

3 Counties

9. Have you received information/evidence from taxpayers requesting that bundled nontaxable software be excluded from an assessment that you did not accept?

☐ No

19 Counties

☐ Yes

21 Counties

If yes, please identify the taxpayer's documentation submitted as support for an adjustment and provide us with a copy of the information.

☐ Study or data provided by a taxpayer.

6 Counties

☐ Invoice

2 Counties

- ☐ Manufacturer or vendor provided a breakdown in costs concerning one or more of the following: hardware, basic operational software, and application software, and/or application software.

3 Counties

- ☐ Other (Please Explain)

Comment: Letters, memos, emails from agent with models of medical equipment

Comment: 1997 appeal by Sierra Pacific Industry; appeal ultimately dropped

Comment: Letters from vendors; undocumented opinions of tax agents

Comment: General opinion of taxpayer

Comment: Letters/invoices from taxpayer with breakdown by % for make/model

Comment: Quotes from vendor

Comment: % with no supporting evidence

Comment: Documentation prepared by agent with no verification

Comment: Letters from vendors; taxpayer spreadsheets with no support

Comment: Memo from manufacturer stating 30% of cost is software

Comment: Requests for deductions made on BPS and in appeal filings

Comment: Not accepted any claim for software because companies have not met Rule 152(f) requirements to supply acceptable information

Comment: Letter/email estimating % of software